

VIEW

OF THE

LAW AND PRACTICE IN THE SPANISH COLONIES

RESPECTING THE

MANUMISSION OF SLAVES.

SOME persons have affected to question, whether it be true that the number of days allowed to the Slaves in the Portuguese and Spanish colonies, in the course of the year, be really so many as has been asserted—viz. fifty-two Sundays, fifty-two week-days, and at least thirty holidays; in all, 134; and whether those facilities of manumission exist there which have been held up as an example, as well as a matter of reproach, to Great Britain. The following authorities will probably place these points beyond further doubt.

Mr. Koster, the author of *Travels in Brazil*, published a pamphlet in 1816, with his name prefixed to it. It may be found in the sixteenth Number of the Pamphleteer. This valuable and accurate writer thus states the case of the Brazilian Slave. Besides his food, which is "salt meat or salt fish, and the flour of the manioc," "the laws allow him to have the Sundays and holidays as his own," p. 313. "The Brazilian Slaves, who supply themselves with food, have one day in every week for this purpose; but they are expected not to require any assistance from the master." They have also, "in the course of the year, above thirty holidays besides Sunday." p. 327.

The Spanish Cedula of the 31st of May, 1789, says, that on holidays "the Slaves shall not be obliged or permitted to work either for themselves or their masters, except at the time of crop, when it is customary to grant them liberty to work on holidays."

This is further confirmed, by a reference to a work published by Longman, in 1810, entitled "*Present State of the Spanish Colonies*, by W. Walton, Junior;" in which that gentleman remarks, that "a considerable impediment to the progress of culture in Spanish possessions, is the great number of feast-days that interfere with the labours of the field;" and again, that though Spanish Slaves are denied many "subordinate conveniences, they are allowed a much greater surplus of time to procure them, and enjoy more indulgences than the Slaves of other nations."—Vol. ii. pp. 140, 143.

The author goes on to say, that "a Slave has the right of redemption; and, in any dispute with his master, has the privilege of choosing an arbitrator. If he be not contented to live in the servitude of a particular person, by whom he may be ill-treated, and can produce sufficient motives and another purchaser; or if he has had sufficient industry and economy to have amassed the stipulated sum of 300 dollars; he can demand his freedom, by refunding his purchase-money." "The price

affixed by law for the redemption of a female, is 250 dollars. An infant, unborn, ceases to be the property of the owner, by the deposit of 100 rials (about 42s.); and after birth, by that of twenty-five dollars."

This general statement is confirmed by a more recent writer, who, in letters from the Havannah, dedicated to Mr. Croker, of the Admiralty, and published by Miller in 1821, speaks of "the festivals held every Sunday and feast-day," when "numbers of free and enslaved assemble" for amusement; and he afterwards describes them as "festivalizing on a *dios de dos cruces*, or a church holiday." He also recognizes the regulation which allows the slave "who is discontented with the treatment of his owner, to demand a *carta*, or licence to be sold; or, in other words, to change his service." p. 42.

"There are many Coloured People," he adds, "whose freedom is the purchase of the extra earnings allowed them by law." "The number of free People of Colour in this island is nearly equal to the total amount of that class in all the islands together. This is attributable to the mildness of the Spanish Slave-Code, which softens the rigour of their hard destiny."—"Every slave under the Spanish colonial law, who tenders his master the sum he was bought at, is entitled to enfranchisement, *nor can his master refuse it*. It is equally permitted him to purchase a portion of his freedom by instalments, as his ability allows, being then said to be *coartado*, or cut; and such are, in consequence, entitled to a licence to work where and with whom they please, paying to their master a *rial* (5d.) per day, for every hundred dollars remaining of their value, beyond the instalment they have paid. Many who are not *coartado* are allowed by their owners to labour where they please, under similar conditions; by which means an industrious Slave may, in a few years, procure sufficient to ransom himself. The excellence of such a regulation it is easy to appreciate. The permission to purchase freedom by portions, is both a wise and merciful policy. It satisfies the master with a high interest, during the period the Slave is working out his freedom; and it imbues the latter with habits of cheerful industry, while he is, as it were, knocking off his chain link by link."—pp. 40—42.

A farther confirmation of these statements is to be found in our own Privy-Council Report of 1789, part VI., where the following provisions are represented as forming a part of the law of the Spanish Colonies, regarding slavery, viz.

"Any Slave, on proof given to the Governor of bad treatment by the owner, may insist on being transferred to another master, at such price as may be settled between the purchaser and the seller; and if the latter is exorbitant in his demand, the Governor is to name a third person as umpire.

"Any Slave who, by his industry and economy, has raised a sufficiency to purchase his manumission, may demand his freedom from his master, on paying an equitable price; and if the master should prove unreasonable, the Governor, on the application of the Slave, is to appoint two appraisers, who are to fix the price."

The Report adds, that "it is said there are nearly 20,000 free People of Colour in the city of Havannah alone."

But the most conclusive evidence on this subject is to be found in a communication from Mr. Kilbee, the Commissioner of the Mixed Commission Court at the Havannah, to the late Mr. Canning, dated October 9, 1824, and which stands at p. 120—124, of Class A of Papers on the Slave trade, presented to Parliament, by His Majesty's Command, in the Session of 1825. The following is the substance of this highly important official document.

It has been the practice at all times, of the Courts of Justice in Cuba, to sanction such regulations as tend to ameliorate the lot of Slaves; and this has gradually given rise to a system, which, though principally founded on custom, has acquired the force of law, and many parts of which have been confirmed in Royal decrees. Among other beneficial regulations there is a public officer in every district, who is the official protector of slaves, and whose presence is necessary at every legal decision concerning them.

Slaves in the island of Cuba may be divided into two classes; those in *Venta Real*, that is, who may be sold by the master for any sum he chooses to demand; and *Coartados*, that is, those whose slavery is limited by a price being fixed on them which cannot be increased at the will of the master.

Slaves may acquire their liberty by the mere grant of their master, or by testament, and the only formality necessary is a certificate, called a *Carta de Libertad*. No security is required, as in the British islands, that they shall not become a charge to the parish.* But masters are not allowed to emancipate old and infirm slaves, unless they provide for them.

If a slave can prove that a promise of emancipation has been made to him by his master, the latter will be compelled to perform it; and wills relating to this subject are always interpreted most favourably to the Slaves.

Slaves may also obtain their liberty by purchase: but the master is not allowed to fix an arbitrary price, but if he and the Slave cannot agree, two appraisers are named, one by the Master, the other by the Protector of Slaves, and the judge names an umpire. The law exempts all sales of this description from the six per cent. duty attaching to all other sales. A master is compelled to sell his Slave if the purchaser engages to emancipate him at the end of a reasonable time. Masters who use their Slaves ill may be compelled to sell them: and in case of their not being *coartado*, by appraisement. It is the universal custom to give liberty to Slaves rendering services to the state, the Government paying the master for them.

A Slave once emancipated cannot be again reduced to slavery. Various instances to this effect are cited; among others, the following:—

A Slave applied to a judge to be valued, in order to purchase his

* This demand of security has been nothing else than a contrivance for increasing the obstacles in the way of manumissions; the pretence for it, arising from the alleged necessity of providing for the emancipated Slave, being wholly without foundation.

liberty; the master objected, saying it was impossible he could legally have acquired so much money. The court acknowledged, that the illegal acquirement of the money was a bar to the demand of the Slave; but held, that such illegal acquirement must be proved by the master, as it would be hard to oblige the Negro to account for all the money he had ever received.

Next to obtaining his liberty, the great object of the Slave is to become *coartado*. This consists in his price being fixed; the master giving him a document called, *escretura de coartacion*, by which he binds himself not to demand more than a certain sum for the Slave, which sum is always less than his actual value, but has no relation to the price paid for him.

As Slaves may acquire their liberty, so may they be *coartados* at the pleasure of their master. They may become so too, by paying a part of their value. This arrangement is scarcely ever objected to; if it were, the Slave has only to apply to a court of justice through the Protector to be valued, and then, on paying fifty or a hundred dollars, his master would be obliged to give him an *escretura*, expressing that he was *coartado* in the difference between the sum paid and his estimated value. Thus, if a Slave be valued at 600 dollars, and pay his master 100, he will remain *coartado* in 500; and no greater price can be demanded, whether he be sold to another master, or he himself purchase his liberty. The Slave also who is already *coartado* in a certain sum, may pay any part of it, not less than fifty dollars, and his master is bound to receive it. Again, if a master be about to sell his Slave, the Slave may oblige the purchaser to receive any part of the purchase money, and to remain *coartado* in the remainder; and for the part paid no tax is exacted, nor indeed for any money paid by Slaves towards obtaining their liberty, for becoming *coartados*, or for diminishing the sum by which they may be already *coartados*.

It is a disputed point, whether a Slave can oblige his master to sell him if he can find a purchaser who will *coartar* him. This practice, being liable to abuse, is generally discouraged, unless the purchaser be willing to *coartar* the Slave in considerably less than his value; in two-thirds of it, for example; in which case, no judge would refuse the demand for a change of masters; the meliorating the lot of the Slave, and advancing him in the way of obtaining his liberty, being held paramount to all other considerations. In all cases, however, where a Slave demands to be sold to a purchaser who offers to improve his condition, either by engaging to emancipate him at the end of a reasonable time, or by agreeing to *coartar* him, or by diminishing the sum in which he is *coartado*, the original master will have the preference, and need not sell him if he be willing to confer the same benefit on the Slave which the purchaser proposes to confer.

The *coartado* Slave has this great advantage, that, if hired out by his master, or, as is more common, allowed to hire himself out, he is only bound to pay his master one real a day for every hundred dollars in which he is *coartado*. Thus, if *coartado* in 500 dollars, he pays five reals a day; if in 450, four and a half, and so on; Sundays and cer-

tain holidays being excluded; while the master of a Slave in *venta real* is entitled to all the money the latter can earn.

The law is, that a *coartado* Slave is as much a Slave as any other, except as regards his price, and the quota he is to pay his master, if hired out. The master, therefore, is as much entitled in law to his personal service, as to that of a Slave in *venta real*. But this is somewhat modified in practice. If a Slave descend to his master *coartado*, or become so in his service, the master may require his personal service, and the Slave cannot demand to be allowed to work out. But when a *coartado* Slave is sold, it being the custom for the Slave himself to seek for a new master, he uniformly stipulates beforehand whether he is to serve personally, or to work out, paying the usual daily quota; and judges will always compel the master to observe such stipulation, unless the Slave should neglect to pay; when the only remedy is to exact his personal service. It is not uncommon, therefore, for a master wishing to employ his *coartado* Slave who has stipulated to be allowed to work out, to pay the difference between the sum the Slave ought daily to pay to him, and the wages usually earned by the Slave. In this case alone is the Slave paid for his labour by the master, except, indeed, he is employed on Sundays or holidays.

During illness *coartado* Slaves who work out are exempted from paying any thing to their master, who, on the contrary, is bound to maintain and assist them as other Slaves.

The sum in which a Slave is *coartado*, may be augmented by the amount of any damages the master may be made to pay on his account, by a court of justice. But if the Slave neglects for some time to pay the daily sum due to his master, this cannot be added to his price, because it was his master's fault not to have had recourse in time to the proper remedy of compelling the Slave's personal service.

The law which so eminently favours the Slave, does not neglect his offspring. A pregnant Negress may emancipate her unborn infant for twenty-five dollars; and between the birth and baptism, the infant may be emancipated for fifty dollars; and at any other time during childhood, its value being then low, it may acquire its liberty, or be *coartado* like other Slaves.

In administering this system in the country parts, where there are few magistrates, there may be abuses; yet in the Havannah, and other large towns, it is efficiently observed. Indeed, to the honour of the island be it said, this is the branch of the laws which is best and most impartially administered.

Wages are high in Cuba; a common field Negro earns four reals a day and is fed; a mechanic ten reals to three dollars a day; and a regular house-servant twenty to thirty dollars a month, besides being fed and clothed. With such wages the *coartado* Slave is well able to pay the daily quota to his master, and to lay by something for the attainment of his liberty. This could not be done were wages much lower.*

The large White population, too, is a great advantage to the Slaves,

* But then his price would be lower.

from the facility thereby afforded to change masters, and thus remedy many of the evils attending their state. The lot of household slaves, who derive most benefit from this circumstance, is particularly favourable. They are almost always taught some trade, and by well employing their leisure hours they may easily acquire their liberty in seven years. Field Slaves, too, have their advantages. They are by law entitled to a certain quantity of ground, with the produce of which, and the breeding of pigs and poultry, they may well look forward to acquiring money to become *coartado*, and even to being emancipated. It is also highly advantageous to the Slaves that public opinion is favourable to granting them their liberty; and all respectable men would feel ashamed to throw obstacles in the way of their becoming free; on the contrary, masters are generally very willing to assist their Slaves in the attainment of this most desirable object. The effects of this system are seen in the state of the population. The last census (which, though not very exact, is sufficiently so for the present purpose,) makes the Whites 290,000, the free People of Colour, 115,000, and the Slaves, 225,000.

Such is in substance Mr. Kilbee's statement; and it may well put to shame both the law and the practice of Slavery in the British Colonies, and in the United States.